

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

BILLINGS DIVISION

FILED
BILLINGS DIV.
2010 FEB 5 PM 1 23
PATRICK E. DUFFY, CLERK
BY
DEPUTY CLERK

JAMES MORRISON,

Petitioner,

vs.

**LEROY SPANG, President,
Northern Cheyenne Tribe;**

Respondents.

CV-09-148-BLG-RFC

**ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
U.S. MAGISTRATE JUDGE**

On January 5, 2010, United States Magistrate Judge Carolyn Ostby entered Findings and Recommendation. Magistrate Judge Ostby recommends this Court dismiss Plaintiff's writ of habeas corpus under 28 U.S.C. § 2241.

Upon service of a magistrate judge's findings and recommendation, a party has 14 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, no party filed objections to the January 5, 2010 Findings and Recommendation. Failure to object to a magistrate judge's findings and recommendation waives all objections to the findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999). However, failure to object does not relieve this Court of its burden to


review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

After an extensive review of the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety. Petitioner must exhaust available remedies in the tribal court before this Court will consider his petition. *Selam v. Warm Springs Tribal Corr. Facility*, 134 F.3d 948, 953-54 & n.6 (9th Cir. 1998).

Accordingly, **IT IS HEREBY ORDERED** that the Petition is **DISMISSED** for failure to exhaust tribal remedies. The Clerk of Court is directed to enter by separate document a judgment of dismissal.

The Clerk of Court shall notify the parties of the entry of this Order.

DATED the 2 day of February, 2010.



RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE